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FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2004 JUN 15 P 3:42

May 13, 2004

Federal Elections Commission  
Office of the General Counsel  
999 E Street NW  
Washington, DC 02463

AOR 2004-21

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
2004 MAY 20 A 10:05

Dear Sir/Madam:

A subsidiary of ours hopes to introduce a new web site designed to transform "canceling" political contributions into charitable donations. The site would allow contributors to voluntarily offset their donations against contributions to competing candidates or causes, with both contributions then being redirected to charity. A prototype of the site is available at <http://www.givetousa.com>.

When two donors make political contributions to competing causes or individuals, they will have the option of redirecting both contributions to charities of their choice. If no offset is found, we would pass the funds along to the political candidate or cause selected by the donor; the contribution would be in the name of the original donor and we would not keep any of the money. We would, however, be paid a fundraising fee if the money went to charity instead.

I am writing to inquire as to whether there are regulatory issues involved that preclude this kind of activity. We would obviously keep complete records regarding the source and eventual disposition of any funds raised; my biggest concern revolves around the fact that we would be providing this service without charging a direct fee to the political entities involved. Our position is that the payment we are receiving is that we are being given the opportunity to collect a fee for offsetting one contribution against another.

I would appreciate an opinion from you regarding the legality of this effort, whether there are problems that I have not anticipated, and what, if anything, can be done if there are issues to be resolved.

Thanks very much for your assistance.

Sincerely Yours,

Matthew L. Ginsberg  
Chief Executive Officer



Michael Marinelli /FEC/US

06/10/2004 03:49 PM

To [REDACTED]

cc

bcc

Subject Fw: memo of previous conversations

----- Forwarded by Michael Marinelli/FEC/US on 06/10/2004 03:48 PM -----



Michael Marinelli /FEC/US

06/10/2004 03:44 PM

To Matt Ginsberg [REDACTED]

cc Duane Pugh/FEC/US@FEC, Mai Dinh/FEC/US@FEC

Subject memo of previous conversations [REDACTED]

Mr. Ginsberg

below is a memorandum of previous conversations you had with Mr Pugh.  
It is being used as part of the factual basis for your Advisory Opinion request.  
If it does not reflect your understanding of the conversation or the factual situation please let us know  
I understand that your email of June 10 provided further information on several points. The information from that email is also being used as part of factual record in the request.

Memorandum of June 1, June 4 and June 8, 2004 phone conversations between Senior Attorney Duane Pugh and Mr. Matthew L. Ginsberg, Chief executive Officer of On Times Systems Inc. *The Questions were asked by Mr. Pugh with Mr. Ginsberg providing the responses.*

*Question: Identify the subsidiary of On Time Systems Inc. that will provide the service described in your proposal.*

The subsidiary is Givetousa, LLC, a company wholly-owned by On Time Systems, Inc.

*Question: Prototype website lists President, U.S. House (but not Senate), and State House and Senate, and two Oregon ballot measures. Will others be added? Will any other "political causes" anticipated be added? (e.g. party committees, etc.)*

Yes—the website will add all of the U.S. Senate campaigns and as many State legislative house campaigns as Givetousa can manage (permissibility under State law will be the issue). Ballot measures will also be added. Because of the complexities of setting up obvious opposing candidates and causes, the service will be limited only to candidates and ballot measures.

*Question: Will you have a contract with the charities that specifies your fee?*

Yes—The terms of the contract are available on website at [www.givetousa.com/listing.html](http://www.givetousa.com/listing.html). This web page states what the fee will be. At present, Givetousa plans only to charge a fee from charities. However, if Givetousa is legally required to charge candidates and ballot committees they will.

*Question: Will Givetousa have any contact with Federal candidates or political committees?*

Givetousa has contacted the RNC and DNC but have not received word back. Given the purpose of the website and

service, support from either organization is not expected. Givetousa will not contact any other Federal political committees or candidates.

*Question: What will be the time period for the processing of contributions? The Prototype website offers 12 week delay.*

Givetousa can take a longer or shorter period to follow whatever legal requirement it faces. The proposal will not use a period that goes past an election or straddles a tax year.

*Question: What type of screening for excessive or prohibited contributions will the website provide*

Givetousa is currently looking into what of screening they could provide. They wish to follow whatever legal requirements the Commission mandates. Givetousa was uncertain if they could monitor contributions to make sure contributors did not contribute to more than their legal limits more than once using different names through website. With regards to "contributions" made to the Bush and Kerry campaigns through the website during the general election, these contributions could go to the GELAC fund or the RNC/DNC rather than the general committee when indicated by the contributor. Givetousa believes that a "matched" contribution that went to charity instead of the candidate shouldn't count toward any limits.

June 4 and June 8

Mr. Ginsberg indicated that Givetousa would use a separate bank account for any funds that might be contributions and would establish a separate merchant account for the credit card processing of similar funds. He also stated that Givetousa is considering seeking seeking 501(c)(3) status for itself.



RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF THE  
GENERAL  
Clerk  
Matt Ginsberg

To mmarinelli@fec.gov

cc

06/10/2004 JUN 10 PM 4:20 bcc

Subject Re: Fw: memo of previous conversations

Memorandum of June 1, June 4 and June 8, 2004 phone conversations between Senior Attorney Duane Pugh and Mr. Matthew L. Ginsberg, Chief executive Officer of On Times Systems Inc. The Questions were asked by Mr. Pugh with Mr. Ginsberg providing the responses.

Question: Identify the subsidiary of On Time Systems Inc. that will provide the service described in your proposal.

The subsidiary is Givetousa, LLC, a company wholly-owned by On Time Systems, Inc.

The fact that we have decided to pursue 501(c)(3) status for Give To USA means that we will be reforming it as a non-profit corporation instead of an LLC.

Question: Prototype website lists President, U.S. House (but not Senate), and State House and Senate, and two Oregon ballot measures. Will others be added? Will any other "political causes" anticipated be added? (e.g. party committees, etc.)

Yes???the website will add all of the U.S. Senate campaigns and as many State legislative house campaigns as Givetousa can manage (permissibility under State law will be the issue). Ballot measures will also be added. Because of the complexities of setting up obvious opposing candidates and causes, the service will be limited only to candidates and ballot measures.

Question: Will you have a contract with the charities that specifies your fee?

Yes???The terms of the contract are available on website at [www.givetousa.com/listing.html](http://www.givetousa.com/listing.html). This web page states what the fee will be. At present, Givetousa plans only to charge a fee from charities. However, if Givetousa is legally required to charge candidates and ballot committees they will.

We will work with charities on both a contractual and a non-contractual basis. Charities will be encouraged to sign the listing agreement that you cite, but donors will also be permitted to supply their own charities or to work with charities that have not signed the listing agreement. In that case, we will confirm that the charities are recognized as 501(c)(3) entities by the IRS before passing any funds to them. If the entity is not 501(c)(3), we will donate the funds to a charity of our choice.

(If for some reason this is a problem, we don't have to do it. But we would like to give the donors maximum flexibility in this regard.)

Question: Will Givetousa have any contact with Federal candidates or political committees?

Givetousa has contacted the RNC and DNC but have not received word back. Given the purpose of the website and service, support from either organization is not expected. Givetousa will not contact any other Federal political committees or candidates.

Question: What will be the time period for the processing of contributions? The Prototype website offers 12 week delay.

Givetousa can take a longer or shorter period to follow whatever legal requirement it faces. The proposal will not use a period that goes past an election or straddles a tax year.

Question: What type of screening for excessive or prohibited contributions will the website provide

Givetousa is currently looking into what of screening they could provide. They wish to follow whatever legal requirements the Commission mandates. Givetousa was uncertain if they could monitor contributions to make sure contributors did not contribute to more than their legal limits more than once using different names through website. With regards to ???contributions??? made to the Bush and Kerry campaigns through the website during the general election, these contributions could go to the GELAC fund or the RNC/DNC rather than the general committee when indicated by the contributor. Givetousa believes that a "matched" contribution that went to charity instead of the candidate shouldn't count toward any limits.

June 4 and June 8

Mr. Ginsberg indicated that Givetousa would use a separate bank account for any funds that might be contributions and would establish a separate merchant account for the credit card processing of similar funds. He also stated that Givetousa is considering seeking seeking 501(c)(3) status for itself.

As mentioned above, we will be pursuing 501(c)(3) status for Give To USA.

Other than as indicated above, this all looks right to me. Thanks!

Ginsberg, President

to USA LLC

Millrace, Ste. 1

Eugene, OR 97405

541/346-0471

Matt

Give

1850



RECEIVED  
FEDERAL ELECTION COMMISSION

Matt Ginsberg

06/10/2004 12:11 PM

2004 JUN 10 P 4:20

To mmarinelli@fec.gov

cc

bcc

Subject our request for an opinion

Dear Mr. Marinelli:

This message is a followup to our request for an opinion from your office regarding our givetousa.com web site. First, the look and feel of the web site is likely to change substantially in the next week or so, although the basic functionality will be the same. If you'd like to see what the real web page will look like, please take a look at

<http://www.givetousa.com/mockup.jpg>

to get a feel for it.

Also, one of the questions that your office has asked me is whether or not we will be taking steps to ensure that no donor exceeds the political campaign contribution limits in any given race. We will be taking such steps, in that we will maintain a global database of all donors to every race and, when a new contribution is made, will be checking that contribution against the full database to ensure that the accumulated contribution made by any individual donor does not exceed the legal limit. The donor will be informed that any amount in excess of the limit will be sent instead to the donor's charity, and that is what we will do.

It's possible to spoof this scheme by a single donor providing multiple identities to the system, but short of that sort of fraud on the donor's part, the approach seems pretty solid.

I hope that this helps to clarify this issue and look forward to hearing further from you as this matter moves forward.

Ginsberg, President

to USA LLC

Millrace, Ste. 1

Eugene, OR 97405

541/346-0471

Matt

Give

1850



Matt Ginsberg

<[REDACTED]>

06/10/2004 05:58 PM

To mmarinelli@fec.gov

cc

bcc

Subject Re: Fw: memo of previous conversations

Just in case this helps. It's currently a draft, but you're welcome to include it in your file.

Thanks!

Matt

This Web site is owned and operated by or on behalf of Give To USA, Inc. This privacy policy describes what we do with the personal and other information that you provide to us; for information regarding our processing of donations, please see our \*LEGAL PAGE\*.

If you have any questions regarding Give To USA, you can always contact us by \*MAIL\* or by \*EMAIL\*.

#### Privacy policy

Your information is yours. That's it, plain and simple. We will never share your information with anyone except as needed to process your donation. If you give money to a political candidate or cause, we will pass that money along with the required personal information. If you give money to a charity, we will provide that charity with the information it needs to give you a receipt for tax purposes. If you ask us to, we'll let the group that \*didn't\* get your contribution know that you support them.

And that's it. We won't send you email, except as involved in processing your contribution. We won't send you postal mail. We won't give or sell your contact information to anyone else, unless we're required to by law. We believe that private information should be private, and we'll do our best to protect yours. End of story.

#### Credit cards

Any credit card information that you supply is encrypted every step of the way. Even if someone else managed to intercept your payment information, it would be virtually impossible for them to decrypt it and get any personal information.

#### Refunds

All donations are final. Once you authorize us to charge your credit card, the funds will be disbursed as you request and in accordance with the information elsewhere on this page. They cannot be returned to you if, for example, your candidate drops out of the race or some other event occurs.

#### Tax implications

If your money is sent to a politician or political cause, we will send the full amount of your donation, less any expenses we incur in processing your credit card. You will get a receipt and be taxed in

keeping with the tax laws of your state. In general, there is no federal tax benefit for making political contributions. State laws vary. Give To USA currently has an application pending with the IRS to be recognized as a charity for tax purposes. If that application is approved, then the money that we retain to cover our costs in processing your credit card will be deductible by you as a charitable donation. We will send you an email receipt for that amount.

If your money is sent to a charity, we will retain a processing fee to cover our expenses. These expenses include credit card processing, and the development, licensing and operation of the software underlying the Give To USA web site. In some cases, the charity receiving the money may elect to pay us for our services, but if that happens, we will send your donation to the charity in its entirety, making your entire contribution tax deductible. We will never charge or accept from a charity more than 10% of the amount that you give us to send to them. The result of this is that if our IRS application to be recognized as a charity is approved, 100% of your donation will be a charitable contribution for tax purposes. If our application to be recognized as a charity is not approved, between 90% and 100% of your donation will be a charitable contribution for tax purposes. In all cases, at least 90% of your contribution will be a charitable contribution for tax purposes.

#### Selecting a charity

When you pick a charity, you have the option of selecting one from our list of known charities, or selecting one of your own. If you select one of your own, we will attempt to confirm that the organization that you have selected does indeed have 501(c)(3) charitable status according to the IRS. If your charity does have 501(c)(3) status and your political contribution is offset, we will pass your money along to the charity you named in accordance with our policy described in the previous paragraph. If we are unable to confirm that your organization has 501(c)(3) status, we will send any offset money to \*SECOND HARVEST\*, which happens to be our favorite charity, once again in keeping with the terms of the previous paragraph.

#### Campaign limits

In most cases, there are limits regarding the amount of money that a single individual can contribute to a single politician or campaign. We believe that those limits are an important element in ensuring that everyone has a voice in the political process, and we do our best to ensure that the limits are respected by users of our web site. You are welcome to make one or more donations through our web site that accumulate to more than the political campaign limit, but if you do that and your donations are not offset, any amount in excess of the limit will be sent to your charity instead, in keeping with the procedures described elsewhere on this page. Money that is offset and goes to charity does not count toward the political contribution limit, so you can always return to our web site and make another contribution if that happens.

#### General policies

If it is impossible for any reason for us to send funds to a politician or political issue, they will instead be sent to your charity in keeping with policies described elsewhere on this page. If the funds cannot be sent to your charity, they will be sent to a charitable organization of our choosing, once again in keeping with



the other policies described on this page.

#### How it works

We have worked to ensure that we operate our web site in a completely unbiased way that does not favor any particular politician or issue. As an example, imagine there were three candidates in a race, named Clinton, Dole and Perot. It would be unfair for us to always try to offset contributions to Clinton and Dole and only offset Perot's contributions as a last resort. That would give Perot a funding advantage.

What we do instead is to consider all of the pending donations that might offset yours. If there is more than one possible offset, we offset your donation against the one that has the least amount of time left for an offset to be found. Here's an example:

Ms. Jones gives \$100 to Dole on July 1, naming Clinton and Perot as offsets and giving us until September 1 to find a match.

Mr. Smith gives \$50 to Clinton on August 1, naming Dole and Perot as offsets and giving us until August 15 to find a match.

Now if you give \$75 to Perot on August 7 and name both Clinton and Dole as offsets, either of the existing donations is a possible offset. We use Smith's donation first because it's closer to expiring (August 15 instead of September 1). We offset \$50 of your contribution against Smith, and the remaining \$25 against Jones. Your contribution and Smith's have been completely offset, and there is \$75 remaining in Jones' donation.

Once your time limit expires, you are guaranteed that the funds will be sent to the politician you have selected. In some cases, we may hold your funds for up to 30 days so that they can be combined with other monies that are going to the same candidate or charity. This reduces bookkeeping costs to all parties. We will never deliberately hold money for more than 30 days or past the end of the year, and will not deliberately hold money going to a politician past the end of the associated election; we do reserve the right to take one business day to process a donation. Any money that we have not yet forwarded will be kept in a separate bank account that we do not use for operating or other expenses.

We reserve the right to make changes to our privacy or legal policy at any time.

[MAKE A SUGGESTION](#)[TELL A FRIEND](#)[WHO WE ARE](#)[CONTACT US](#)

## Campaign Finance Reform that Works.

### How It Works.

- You select the candidate or issue to which you want to contribute.
- You select any candidates or issues that you want to oppose.
- You tell us how much time we have to find an offsetting contribution.
- You select your fallback charity or other recipient.
- You make your contribution as you normally would.

If we can find a contribution to offset yours within the time limit that you've set, the two contributions are offset and the money is sent on to the fallback recipient. If we can't find an offsetting contribution, the money will be sent to your selected candidate when your time limit expires.

### I Want to Support

Select one of the following 3 choices that you would like to support:

- ☐ National Races  
☐ State Races  
☐ Ballot Measures

[Continue](#)

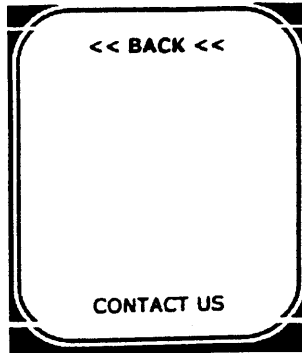
For further information on one of the following click the appropriate button below.

The  
**Process.**

The  
**Candidates.**

The  
**Charities.**

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**Campaign Finance Reform that Works.****Zip Code.**

Please provide us with your zip code below.

For total accuracy we require your "9" digit zip code.

You can retrieve this from [USPS.com](http://USPS.com).

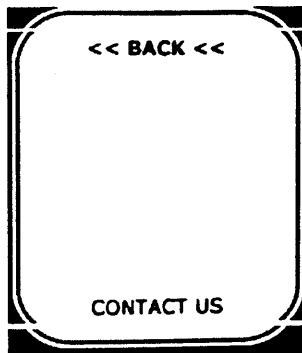
Please copy and paste the XXXXX-XXXX number for guaranteed accuracy.

XXXXX-XXXX

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## Campaign Finance Reform that Works.

### State Races.

Please select the race in which you wish to support a specific candidate.

U.S. Senate ▼

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CONTACT US

**Campaign Finance Reform that Works.****Select Candidates.**

Please first select the Candidate you wish to Support by clicking on their picture then select the Candidate(s) you wish to oppose.



Senator Ron Wyden (D)  
[link to site](#)



Al King (R)  
[link to site](#)



Darlene Hooley (D)  
[link to site](#)



Jim Zupancic (R)  
[link to site](#)



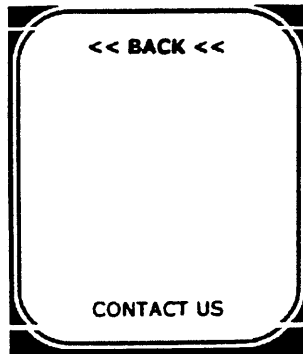
Kelley K. Wirth (D)  
[link to site](#)



Arn McKenna (R)  
[link to site](#)

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## Campaign Finance Reform that Works.

### Choose A Charity.

When you pick a charity, you have the option of selecting one from our list of known charities, or selecting one of your own. If you select one of your own, we will attempt to confirm that the organization that you have selected does indeed have 501(c)(3) charitable status according to the IRS. If it does and your political contribution is offset so that your money, we will pass your money along to the charity you described. If not, we will send the money to \*SECOND HARVEST\*, which happens to be our favorite charity.

[Click to See Details on Our Authorized Charities](#)

Select an Authorized Charity  
American Cancer Society ▼

- or -

Provide us with the contact info for the charity of your choice.

Charity Name: \_\_\_\_\_

Address 1: \_\_\_\_\_

Address 2: \_\_\_\_\_

City: \_\_\_\_\_

State/Province: \_\_\_\_\_

Country: \_\_\_\_\_

Zip/Postal Code: \_\_\_\_\_

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CONTACT US

**Campaign Finance Reform that Works.****How Much & How Long.**How much would you like to donate.**Campaign limits**

In most cases, there are limits regarding the amount of money that a single individual can contribute to a single politician or campaign.

We believe that those limits are an important element in ensuring that everyone has a voice in the political process, and we do our best to ensure that the limits are respected by users of our web site. You are welcome to make one or more donations through our web site that accumulate to more than the political campaign limit, but if you do that and your donations are not offset, any amount in excess of the limit will be sent to your charity instead. Money that is offset and goes to charity does not count toward the political contribution limit, so you can always return to our web site and make another contribution if that happens.

How long do we have to find a match for your donation?

November ▼ 10 ▼

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&lt;&lt; BACK &lt;&lt;

CONTACT US

**Campaign Finance Reform that Works.****Personal Information.**

Please provide us with following pieces of information.

\* indicates required fields

Title: \_\_\_\_\_ \*  
 First Name: \_\_\_\_\_ \*  
 Last Name: \_\_\_\_\_ \*  
 Street Address 1: \_\_\_\_\_ \*  
 Street Address 2: \_\_\_\_\_ \*  
 State/Province: \_\_\_\_\_ \*  
 Country: \_\_\_\_\_ \*  
 Zip/Postal Code: \_\_\_\_\_ \*  
 Home Phone: \_\_\_\_\_ \*  
 Business Phone: \_\_\_\_\_ \*  
 Email Address: \_\_\_\_\_ \*  
 Occupation: \_\_\_\_\_ \*  
 Employer: \_\_\_\_\_ \*  
 Donation Amount:(filled in from previous page)  
 Time Delay:(filled in from previous page)  
 Candidate to Support:(filled in from previous page)  
 Candidate(s) to Oppose:(filled in from previous page)  
 Charity:(filled in from previous page)

Please note that if you provide us with an email address we will send you a confirmation email when an offset to your donations has been found or to let you know that your donation has been forwarded to the appropriate party.

☐ Please inform those that did not receive my donation that their money was directed elsewhere

☐ Check this box to confirm that the following statements are true and accurate:

- I am a United States citizen or a permanent resident alien.
- This contribution is not made from the general treasury funds of a corporation, labor organization or national bank.
- This contribution is not made from the treasury of an entity or person who is a federal contractor.
- The funds I am donating are not being provided to me by another person or entity for the purpose of making this contribution.

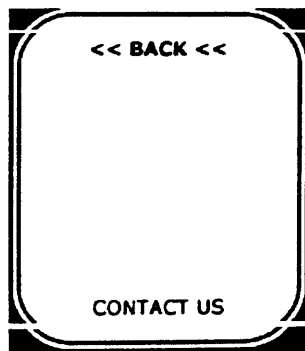
Federal Election law requires political committees to report the name, mailing address, occupation and name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year. Your contribution will be used in connection with Federal elections and is subject to the limits and prohibitions of the Federal Election Campaign Act.

Your contribution will not tax-deductible as a charitable contribution for Federal income tax purposes unless it is offset by someone else.



Continue

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## Campaign Finance Reform that Works.

### Credit Card Processing.

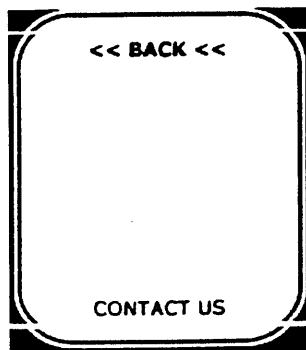
The necessary items required for the Credit Card Processing will be done here.

All donations are final (no refunds) and credit cards will be charged immediately.

[Continue](#)

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**Campaign Finance Reform that Works.**

**Thank You.**

Thanks for using GiveToUSA.  
Please come back again.

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&lt;&lt; BACK &lt;&lt;

**Campaign Finance Reform that Works.****Legal Information.****Credit cards**

Any credit card information that you supply is encrypted every step of the way. Even if someone else managed to intercept your payment information, it would be virtually impossible for them to decrypt it and get any personal information.

**Refunds**

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**Tax implications**

If your money is sent to a politician or political cause, we will send the full amount of your donation, less any expenses we incur in processing your credit card. You will get a receipt and be taxed in keeping with the tax laws of your state. In general, there is no federal tax benefit for making political contributions. State laws vary. Give To USA currently has an application pending with the IRS to be recognized as a charity for tax purposes. If that application is approved, then the money that we retain to cover our costs in processing your credit card will be deductible by you as a charitable donation. We will send you an email receipt for that amount.

If your money is sent to a charity, we will retain a processing fee to cover our expenses. These expenses include credit card processing, and the development, licensing and operation of the software underlying the Give To USA web site. In some cases, the charity receiving the money may elect to pay us for our services, but if that happens, we will send your donation to the charity in its entirety, making your entire contribution tax deductible. We will never charge or accept from a charity more than 10% of the amount that you give us to send to them. The result of this is that if our IRS application to be recognized as a charity is approved, 100% of your donation will be a charitable contribution for tax purposes. If our application to be recognized as a charity is not approved, between 90% and 100% of your donation will be a charitable contribution for tax purposes. In all cases, at least 90% of your contribution will be a charitable contribution for tax purposes.

**Selecting a charity**

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**General policies**

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#### **How it works**

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Ms. Jones gives \$100 to Dole on July 1, naming Clinton and Perot as offsets and giving us until September 1 to find a match.

Mr. Smith gives \$50 to Clinton on August 1, naming Dole and Perot as offsets and giving us until August 15 to find a match.

Now if you give \$75 to Perot on August 7 and name both Clinton and Dole as offsets, either of the existing donations is a possible offset. We use Smith's donation first because it's closer to expiring (August 15 instead of September 1). We offset \$50 of your contribution against Smith, and the remaining \$25 against Jones. Your contribution and Smith's have been completely offset, and there is \$75 remaining in Jones' donation.

Once your time limit expires, you are guaranteed that the funds will be sent to the politician you have selected. In some cases, we may hold your funds for up to 30 days so that they can be combined with other monies that are going to the same candidate or charity. This reduces bookkeeping costs to all parties. We will never deliberately hold money for more than 30 days or past the end of the year, and will not deliberately hold money going to a politician past the end of the associated election; we do reserve the right to take one business day to process a donation. Any money that we have not yet forwarded will be kept in a separate bank account that we do not use for operating or other expenses.

We reserve the right to make changes to our privacy or legal policy at any time.

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## Campaign Finance Reform that Works.

### Privacy Policy.

Your information is yours. That's it, plain and simple. We will never share your information with anyone except as needed to process your donation. If you give money to a political candidate or cause, we will pass that money along with the required personal information.

If you give money to a charity, we will provide that charity with the information it needs to give you a receipt for tax purposes. If you ask us to, we'll let the group that \*didn't\* get your contribution know that you support them.

And that's it. We won't send you email, except as involved in processing your contribution. We won't send you postal mail. We won't give or sell your contact information to anyone else, unless we're required to by law. We believe that private information should be private, and we'll do our best to protect yours. End of story.

[Privacy Policy - Legal Information](#)

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## Charity Signup Form

**Charity name:**

**Contact person:**

**Person's title:**

**Phone number for confirmation:** (xxx) xxx-xxxx

**IMPORTANT**

## GiveToUSA LLC GIVING SYSTEM AGREEMENT

**CAREFULLY READ THE FOLLOWING BEFORE USING GiveToUSA LLC'S GIVING SYSTEM SERVICES OFFERED THROUGH ITS WEBSITE.** BY COMPLETING THE ENROLLMENT PROCESS TO BECOME A SUBSCRIBER TO THE ONLINE SERVICES DESCRIBED BELOW PROVIDED BY GiveToUSA LLC ("COMPANY") YOU AGREE THAT YOU HAVE READ THE TERMS AND CONDITIONS OF THIS AGREEMENT ("AGREEMENT"), UNDERSTAND THEM, ACCEPT THEM, AND AGREE TO BE BOUND BY THEM. THIS AGREEMENT IS BINDING ON YOU AND COMPANY AND SHALL GOVERN ALL INTERACTIONS RELATED TO YOUR USE OF THE GIVING SYSTEM.

**1. SERVICES.** Company shall provide a website for the purpose of facilitating on-line donations to your 501(c)(3) charitable organization (the "Giving System"). The Giving System may only be used to process donations made to your 501(c)(3) charitable organization. Neither Company nor the Giving System will process donations made directly to you or your agent. Neither Company nor the Giving System will process orders for memberships or merchandise. You understand that Company has not authorized, sponsored, endorsed, or approved your organization or your organization's activities, and you agree that you will not falsely convey such a partnership, endorsement, or approval by Company.

**2. FEES.** You, as a subscriber of the Giving System, agree and authorize Company or its agents to charge a non-refundable transaction fee in the amount of ten percent (10%) of each donation. In addition to any charges and fees that may be assessed by Company, you agree to pay all sales, use, value-added, personal property, or other governmental taxes or levies imposed on any charges and fees for your use of the Giving System. Company reserves the right, upon thirty (30) days' prior written notice to you, to change its billing policies and methods and its fees and charges for use of the Giving System and the use of Company's website.

Subject to the limitations provided in this section, the transaction fees owed by you each calendar month shall be reduced by the amount you spend on advertising, marketing, or otherwise promoting the Giving System during the previous calendar month. However, in no event shall the monthly transaction fees be reduced to less than nine percent (9%) of the accumulated donations for the month in question. Further, marketing expenses may not be carried over or used to reduce transaction fees in any month other than the month following that in which the marketing expenses were incurred. If you wish to receive a credit for marketing expenses, you shall submit a detailed invoice listing all amounts claimed, along with appropriate supporting documentation to Company by no later than the fifteenth day of the month after which the expenses were incurred.

For example: Your monthly accumulated donations are \$1,000, leading to a transaction fee of \$100. If you spent \$20 in marketing the Giving System during the previous month, you would be entitled to receive a \$10 credit toward the transaction fees. You would not be allowed to carry over the \$10 excess spent on marketing.

**3. RECORDS AND REPORTS.** Each month Company will forward to you all donations collected for your 501(c)(3) organization (less fees) and provide you with a monthly report that details all donation activity through the Giving System for your 501(c)(3) organization from the preceding month, as well as all fees charged and fee reductions given. This report will serve as your organization's receipt.

**4. REPRESENTATIONS.** You represent and warrant to Company that at all times during the term of this Agreement:

(a) You are recognized by the Internal Revenue Service as exempt from federal income tax under Internal Revenue Code § 501(c)(3), as amended, you have public charity status under Section 509, you will utilize all donations through use of Company in accordance with such tax-exempt status, and you will not violate any restrictions imposed by applicable law on Internal Revenue Code § 501(c)(3) entities, including but not limited to those proscribing political activity or proscribing the use of your income or assets for a private purpose;

(b) You understand you may have obligations to register under, and covenant that you shall fully comply and bear the cost associated with, any and all applicable state and local statutes governing solicitations by charitable organizations, including but not limited to fulfilling any registration requirements thereof;

(c) You shall promptly notify Company of any change in your tax-exempt status and of any inquiry by the IRS or any state or local government regarding the matters described in (a) and (b) above;

(d) The donor of any on-line donation will not receive, nor will be promised to receive, any valuable goods or services as a result of such donations;



(e) You grant Company through the Giving System the authority to collect donations on your behalf and consent to use of your organization's name on the Company website; and

(f) You agree to indemnify and hold harmless Company from and against any loss or liability of any kind, including but not limited to fees and costs incurred in defense thereof, resulting from or arising in any manner from, the material breach or inaccuracy of any covenant, duty, representation, or warranty set forth in (a), (b), (c), (d), or (e) above in this Section 4. Your obligation to indemnify Company shall survive termination of this Agreement.

**5. APPLICABLE LAW AND JURISDICTION.** This Agreement will be interpreted, construed, and enforced in all respects in accordance with the laws of the state of Oregon, except for its conflicts of law principles. Each party irrevocably consents to the jurisdiction of the courts of the state of Oregon and the federal court situated in the state of Oregon in connection with any action to enforce the provisions of this Agreement, to recover damages or other relief for breach or default under this Agreement, or otherwise arising under or by reason of this Agreement.

**6. PROPRIETARY RIGHTS.** All intellectual property rights in the Giving System and Company's website and any media contained on the website are owned by Company or its agents. Without limiting the generality of the preceding sentence, all materials on Company's website and the Giving System are copyrighted material and information and may not be copied except as specifically allowed in writing by Company. You may not violate any copyright, trademark, patent, or other intellectual property rights of Company. Any use, reproduction, or distribution of any media obtained from the Giving System or Company's website other than in strict compliance with this Agreement is a violation of Company's proprietary rights in the media. Unauthorized use of the Giving System and/or Company's website may result in a violation of the copyright, trademark, patent, or other intellectual property rights of Company and may be actionable.

**7. TERMINATION.** Company may terminate this Agreement at any time for any or no reason upon written notice by Company to you, and you agree upon receipt of such notice immediately to cease using Company's website. You also agree that this Agreement shall be automatically terminated without any action on the part of Company should the organization no longer possess tax-exempt status under Internal Revenue Code § 501(c)(3), as amended. You may terminate this Agreement at any time, for any or no reason, upon thirty (30) days' prior written notice to Company.

**8. LIABILITY.** UNDER NO CIRCUMSTANCE WILL ANY PARTY BE LIABLE TO ANY OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, BUSINESS INTERRUPTION, AND LOST DATA, ARISING IN CONNECTION WITH THIS AGREEMENT, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES (COLLECTIVELY, "DISCLAIMED DAMAGES"); PROVIDED THAT YOU SHALL REMAIN LIABLE TO COMPANY FOR GOOD CAUSE TO THE EXTENT ANY DISCLAIMED DAMAGES ARE CLAIMED BY A THIRD PARTY AND ARE SUBJECT TO INDEMNIFICATION PURSUANT TO SECTION 10 BELOW.

**9. DISCLAIMER OF WARRANTIES.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT, AND ANY OTHER SERVICE, CONTENT, TOOLS, OR RELATED DOCUMENTS OR MATERIALS (IN ELECTRONIC FORM OR OTHERWISE) PROVIDED HEREUNDER, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT AND IMPLIED WARRANTIES ARISING FROM A COURSE OF DEALING OR COURSE OF PERFORMANCE. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, COMPANY DISCLAIMS ANY REPRESENTATION OR WARRANTY REGARDING THE PERFORMANCE, AVAILABILITY, FUNCTIONALITY, OR ANY OTHER ASPECT OF THE GIVING SYSTEM AND/OR COMPANY'S WEBSITE. YOU HEREBY AGREE THAT COMPANY WILL NOT BE LIABLE FOR ANY INTERRUPTIONS OR ERRORS IN USING THE GIVING SYSTEM OR COMPANY'S WEBSITE. THE PROVISIONS OF THIS SECTION SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

**10. INDEMNIFICATION.** You agree to defend, indemnify and hold harmless (including reasonable attorneys' fees) Company, its parents, subsidiaries, and affiliates, and its respective officers, directors, agents, and employees from and against any and all liabilities, claims, demands, actions, losses, or damages, arising out of or related to your use of the Giving System and/or Company's website.

☐ I agree. Please contact me to confirm my signup.

Submit

